

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

HERBERT CLIFFORD VITITOE, III,)
)
Petitioner,)
)
v.) No. 3:08-CR-94-TAV-HBG-1
) 3:16-CV-391-TAV
UNITED STATES OF AMERICA,)
)
Respondent.)

MEMORANDUM OPINION

Federal prisoner Herbert Vititoe, III (“Petitioner”) filed for post-conviction relief pursuant to 28 U.S.C. § 2255 on August 13, 2010 [Doc. 22; E.D. Tenn. Case No. 3:10-cv-379-TAV].¹ The Court denied relief, concluding none of the grounds asserted in Petitioner’s original petition provided a viable basis for granting the requested collateral relief [*See generally* Docs. 34, 35]. Petitioner recently submitted a second petition attacking the same conviction [Doc. 40].

Under the “Antiterrorism and Effective Death Penalty Act of 1996,” Petitioner cannot file a second or successive § 2255 petition in the District Court until he has moved in the United States Court of Appeals for the Sixth Circuit for an order authorizing the District Court to consider the motion. 28 U.S.C. § 2255(h). No such order has been received by this Court. Accordingly, the Clerk will be **DIRECTED** to **TRANSFER** the filing [Doc. 40] to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631.

ORDER ACCORDINGLY.

s/ Thomas A. Varlan

CHIEF UNITED STATES DISTRICT JUDGE

¹ Each document will be identified by the Court File Number assigned to it in the underlying criminal case: E.D. Tenn. Case No. 3:08-cr-94-TAV-HBG-1.